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ECONOMIC RELIEF FOR BUSINESSES IMPACTED BY CORONAVIRUS (COVID-19)

In response to the Coronavirus (COVID-19) outbreak, the federal government and many states have developed paths towards economic relief for small businesses. Below is a summary of such programs at the federal level and in New York, Connecticut, and New Jersey.

I. Federal - U.S. Small Business Administration (the "SBA")

In response to the Coronavirus (COVID-19) outbreak, the SBA has made Economic Injury Disaster Loans ("EID Loans") available for qualifying businesses that have suffered economic injury as a result of the epidemic. Below is a summary of the SBA's eligibility requirements, application procedures, and general loan terms for the EID Loans.

SBA EID LOAN ELIGIBILITY

In order to be eligible for an EID Loan a business must first be located in a geographic area that is a declared disaster area recognized by the SBA. Recognized Declared Disaster Areas are listed on the [SBA's website](#). As of March 17, 2020, the following areas are approved for disaster loan assistance due to the Coronavirus (COVID-19): California, Connecticut, Idaho, Maine, Massachusetts, New Hampshire, New York, Oregon, Rhode Island, and Washington. The entire State of

Connecticut was declared a federal state of disaster due to the Coronavirus outbreak effective as of January 31, 2020. Many other states are currently in the process of submitting requests to the SBA for an economic injury disaster declaration as a result of the virus and should be eligible for EID loans in the coming days and weeks.

The SBA further requires that a business qualify as a small business to be eligible for an EID Loan. The definition of a "small business" varies by industry but generally is based on the number of employees a business has or the amount of revenue a business generates annually. The SBA has an [interactive website](#) to help companies determine whether or not they qualify as a "small business" under the SBA's regulations. Generally, a full-service restaurant qualifies as a "small business" so long as it has less than \$8,000,000 in annual revenue. Private and nonprofit organizations may also qualify for EID Loans.

Finally, a business must demonstrate that it has suffered "substantial economic injury" as a direct result of the disaster, in this case the Coronavirus outbreak, in order to qualify for an EID Loan. For the SBA's purposes a "substantial economic injury" generally means a decrease in

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income from operations or working capital with the result that the business is unable to meet its obligations and pay ordinary and necessary operating expenses in the normal course of business.

Ultimately, an applicant's eligibility for an EID Loan will be determined by the SBA based on the applicant's type of business, available financial resources, and its demonstration of substantial economic injury.

EID LOAN APPLICATION PROCESS

An EID Loan, and all other SBA disaster assistance loans, can be applied for by an (1) **online application** or (2) by a paper form, using **SBA Form 5**. The SBA has suggested that online applications will be processed more quickly than applications submitted on a physical form.

In addition to the EID Loan application form, an applicant must submit the following documentation to the SBA –

1. Tax Information Authorization (**IRS Form 4506T**), completed and signed by each principal owning 20% or more of applicant business, general partner, general manager or owner who has 50% ownership interest in affiliate business. (Affiliates include, but are not limited to business parents, subsidiaries, and/or other businesses with common ownership or management with applicant business.)
2. Complete copies, including all schedules, of the most recent Federal income tax returns for the applicant

business; if unavailable a written explanation must be submitted in lieu

3. Personal Financial Statement (**SBA Form 413**) completed, signed, and dated by the applicant and each principal, general partner or managing member.

4. Schedule of Liabilities listing all fixed debts (**SBA Form 2202**)

Following the submission of a complete loan application, the SBA will conduct a credit check of the applicant and verify the business' financial information. The SBA may request additional financial information including tax returns for principals, general partners and managing members of the business, as well as a current profit-and-loss statements, and balance sheets for the business. The SBA's stated goal is to review an application and decide on a business' eligibility for the EID loan program within 2-3 weeks. Given the anticipated high volume of applications to this program as a result of the Coronavirus, it is likely that the application and review process will take longer. Once an application is fully accepted and approved, the applicant will need to sign the applicable EID Loan documents and return them to the SBA. The applicant can expect to receive a disbursement of the EID Loan funds within one week from the SBA's receipt of the fully executed loan documents.

The EID loan amount awarded by the SBA will be based off an applicant's actual

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economic injury and the business' financial needs, as determined by the SBA. The SBA will factor in the availability of other potential sources of financial contribution and business interruption insurance when determining an EID loan amount to be awarded to a small business.

EID LOAN USE AND GENERAL TERMS

The funds from an EID loan may be used by the small business to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact. The terms of an EID Loan shall be determined by the SBA on a case-by-case basis, based upon each applicant's needs and ability to repay. Generally, the maximum amount of an EID loan for the Coronavirus disaster is \$2 million with an interest rate of 3.75% for small businesses or 2.75% for non-profits. The maximum repayment term of an EID loan is 30 years. There are no pre-payment penalties imposed by the SBA on an EID loan.

ALTERNATIVES TO EID LOANS

Small businesses that do not qualify for EID loans or have alternative needs may still be eligible for financial assistance from one of the SBA's alternative loan programs.

The SBA has an 7(a) Loan Guarantee Program involves loans for small businesses in an amount up to \$5,000,000 made by private lenders that are guaranteed by the SBA ("SBA 7(a) Loan"). An SBA 7(a) Loan is made directly by a private lender, who also handles the application and loan process,

but is subject to the SBA's terms and guidelines. To encourage private lenders to make these loans, the SBA guarantees a certain percentage of the SBA 7(a) Loan amount. Small businesses looking for an acceptable lender for a SBA 7(a) Loan can use the **SBA's lender matching tool** or contact their local SBA office for recommendations. The local Connecticut SBA office can be reached at 860-240-4700. The general timeline for the approval of an SBA 7(a) Loan application is 5 to 10 business days.

In order for a business to qualify for a SBA 7(a) Loan, it must qualify as a "small business" under the SBA's regulations, operate for profit, be engaged in, or propose to do business in, the U.S., have reasonable owner equity and resources to invest in business, and be for a sound business purposes. The acceptable use of the 7(a) Loan funds is generally less restrictive than that of the EID loans and permissible uses include use for working capital, expansion or renovations, new construction, the purchase of land or buildings, the purchase of equipment or fixtures, lease-hold improvements, the refinancing of existing debt for compelling reasons, seasonal line of credit, inventory, or starting a business. The proceeds from an SBA 7(a) Loan may not be used for the reimbursement of an owner for previous personal investments toward the business, the repayment of any delinquent withholding taxes, or anything not deemed a "sound business purpose" as determined by the SBA. Interest rates for SBA 7(a) Loans are

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determined by the private lender and generally based off the prime rate or LIBOR rate at the time of the loan but are subject to interest rate caps set by the SBA.

For businesses that need loan funds in a shorter period of time, the SBA offers a SBAExpress loan program which provides term loans and line of credits in amounts up to \$350,000. The approval process for an SBAExpress loan is generally completed within 36 hours of receipt of an application. A SBAExpress loan must also be obtained through a private lender and may be used for the same general purposes as an SBA 7(a) Loan.

II. New Federal Legislation

EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT AND EMERGENCY PAID SICK LEAVE ACT

On March 18, the United States Senate approved a relief package to provide sick leave, unemployment benefits, free coronavirus testing, and food and medical aid to people impacted by the pandemic. The legislation was passed by the House on March 14, and was signed by President Trump on the evening of March 18. The legislation contains provisions that require immediate review and action for employers with fewer than 500 employees.

Both the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act will take effect 15 days after enactment, i.e. April 2, 2020. These provisions expire on December 31, 2020.

Covered employers (i.e., private employers with fewer than 500 employees) will be provided payroll tax credits to cover the wages and health care contributions paid to employees under the sick leave and family medical leave programs, up to the specified caps.

For more information and a description of the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act, please see Wiggin's March 19, 2020 Advisory [here](#).

III. New York

New York State is currently assessing options to mitigate hardships to NYS businesses. As of March 19, 2020, the following orders and programs have been established in New York State in response to the COVID-19 outbreak:

WORK FROM HOME

On March 18, Governor Cuomo announced he will issue an executive order directing non-essential businesses to implement work-from-home policies effective Friday, March 20, to help reduce density as a social responsibility to protect their workforce. He also announced that businesses that rely on in-office personnel must decrease their in-office workforce by 50%. Exceptions will be made for essential service industries, including shipping, warehousing, grocery and food production, pharmacies, healthcare providers, utilities, media, banks and related financial institutions and other businesses that are essential to the supply chain.

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PAID SICK LEAVE

On March 18, Governor Cuomo signed legislation to provide the following:

- Employers with 10 or fewer employees and a net income less than \$1 million will provide job protection for the duration of the quarantine order and guarantee their workers access to Paid Family Leave and disability benefits (short-term disability) for the period of quarantine including wage replacement for their salaries up to \$150,000.
- Employers with 11-99 employees and employers with 10 or fewer employees and a net income greater than \$1 million will provide at least 5 days of paid sick leave, job protection for the duration of the quarantine order, and guarantee their workers access to Paid Family Leave and disability benefits (short-term disability) for the period of quarantine including wage replacement for their salaries up to \$150,000.
- Employers with 100 or more employees, as well as all public employers (regardless of number of employees), will provide at least 14 days of paid sick leave and guarantee job protection for the duration of the quarantine order.

SHARED WORK PROGRAM

The New York State Department of Labor (NYSDOL) Shared Work Program allows businesses to manage business cycles and seasonal adjustments while retaining trained staff and avoiding

layoffs. Employees can receive partial Unemployment Insurance benefits while working reduced hours. Full-time, part-time and seasonal employees are eligible.

IV. Connecticut

Connecticut has provided a number of resources, in addition to the SBA, for Connecticut businesses including the following:

DECD'S COVID-19 BUSINESS EMERGENCY RESPONSE UNIT

The Connecticut Department of Economic and Community Development has created a COVID-19 Business Emergency Response Unit dedicated to assisting businesses navigate resources and develop new resources. A dedicated phone line is has been set up at 860-500-2333 to provide assistance to Connecticut's small businesses for this purpose.

UNEMPLOYMENT ASSISTANCE

Workers directly impacted by the coronavirus pandemic no longer must be actively searching for work to qualify for unemployment assistance. And employers who are furloughing workers can use the Department of Labor's shared work program, which allows businesses to reduce working hours and have those wages supplemented with unemployment insurance. Further information can be found [here](#).

TAX FILING EXTENSIONS

The Department of Revenue Services has extended deadlines for filing and

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This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

payments associated with certain state business tax returns. Effective immediately, the filing deadlines for certain annual tax returns due on or after March 15, 2020, and before June 1, 2020, are extended by at least 30 days. In addition, the payments associated with these returns are also extended to the corresponding due date in June.

The impacted returns and the associated filing dates and payment deadlines are set forth below:

■ **2019 Form CT-1065/CT-1120 SI Connecticut Pass-Through Entity Tax**

Return: Filing date extended to April 15, 2020; payment deadline extended to June 15, 2020

■ **2019 Form CT-990T Connecticut Unrelated Business Income Tax**

Return: Filing date extended to June 15, 2020; payment deadline extended to June 15, 2020

■ **2019 Form CT-1120 and CT-1120CU Connecticut Corporation Business**

Return: Filing date extended to June 15, 2020; payment deadline extended to June 15, 2020

BUSINESS INTERRUPTION INSURANCE

A business interruption insurance policy should list or describe the types of events it covers. Events that are not described in the policy are typically not covered. It is important to review the policy exclusions, coverage limits, and applicable deductibles with your agent, broker or insurer. The Connecticut Insurance Department has an [FAQ](#) that provides more information.

V. New Jersey

New Jersey has not yet released any official assistance programs for businesses impacted by COVID-19. Several State agencies are currently engaging with local business leaders, local financial institutions, and business advocacy groups to better understand what supports would be most impactful to ensure business and employment continuity. While businesses await direction, the New Jersey Economic Development Authority (NJEDA) has a portfolio of loan, financing, and technical assistance programs available to support small and medium-sized businesses.